

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

| | | |
|--------------------|---|------------------------|
| ISRAEL GARCIA, JR. | : | |
| | : | |
| Plaintiff, | : | Civil Action No. _____ |
| | : | |
| v. | : | |
| | : | |
| GINNY’S INC. | : | JURY DEMANDED |
| | : | |
| Defendant. | : | |
| | : | |

NOTICE OF REMOVAL

Defendant Ginny’s Inc. (“Ginny’s”), pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, hereby notices removal of the state court civil action known as *Israel Garcia, Jr. v. Ginny’s Inc.*, Cause No. 91932, from the 443rd Judicial District Court of Ellis County in the State of Texas, to the United States District Court for the Northern District of Texas, Dallas Division, and in support thereof states as follows:

1. As more fully set forth below, this Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question jurisdiction). Therefore, this action is removable pursuant to 28 U.S.C. § 1441.

2. Consistent with 28 U.S.C. § 1446(a) and Local Rule 81.1, Ginny’s attaches true and correct copies of the following Exhibits: (1) Index of Matters Being Filed (Exhibit A); (2) Plaintiff’s State Court Original Petition (Exhibit B); (3) All Executed Process in this Action (Exhibit C); and Docket Sheet (Exhibit D). Because no orders have been signed by the state court judge, none are attached.

3. Plaintiff Israel Garcia, Jr. ("Plaintiff") commenced this civil action by filing a Petition ("Petition") against Ginny's in the 443rd Judicial District Court of Ellis County, Texas on April 20, 2015.

4. On June 3, 2015, Ginny's registered agent accepted service of Plaintiff's Petition on behalf of Ginny's.

5. In his Petition, Plaintiff asserts a cause of action under the Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227 et seq., and asserts an entitlement to damages on that basis. *See* Petition at 1.

6. This Court has subject-matter jurisdiction over Plaintiff's TCPA claim pursuant to 28 U.S.C. § 1331. Accordingly, this civil action may be removed to this Court pursuant to 28 U.S.C. § 1441(a).

7. This removal is timely. Ginny's files this Notice of Removal within 30 days of June 3, 2015, the date of service of the initial pleading upon Ginny's. *See* 28 U.S.C. § 1446(b)(2)(B).

8. Venue for this removal is proper in the United States District Court for the Northern District of Texas, Dallas Division, because this district and division includes Ellis County, Texas, the location of the pending state court action. *See* 28 U.S.C. § 1441(a); 28 U.S.C. § 124(a)(1) (stating that the Dallas Division of the United States District Court for the Northern District of Texas includes Ellis County).

9. Accordingly, this Court has original jurisdiction and, pursuant to 28 U.S.C. §§ 1441 and 1446, removal of the above-styled state court action to this Court is proper.

10. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being filed with the Justice Court of Harris County, Texas [Precinct 5, Place 2], and notice also is being provided to Plaintiff.

11. By filing this Notice, Ginny's does not waive its right to assert any defense or affirmative matter, including without limitation the defenses listed in Federal Rule of Civil Procedure 12(b) and any other procedural or substantive defenses available to Ginny's under state or federal law.

12. Ginny's reserves the right to amend or supplement this Notice of Removal.

13. A true and correct copy of this Notice of Removal will be served upon all parties of this action and the Justice Court of Harris County, Texas promptly after the filing of this Notice, in accordance with the certificate set forth below and with the requirements of law. The clerk of the aforesaid State Court shall effect the removal and the State Court shall proceed no further unless the case is remanded, as provided by law.

WHEREFORE, Defendant Ginny's respectfully requests that the above-referenced action, originally filed in the 443rd Judicial District Court of Ellis County in the State of Texas, be removed under 28 U.S.C. § 1331, based on subject-matter jurisdiction, to this Court pursuant to 28 U.S.C. § 1441.

DATED: June 26, 2015

Respectfully submitted,

REED SMITH LLP

By: /s/ Jason H. Casell

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Attorneys for Defendant Ginnys Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice of Removal was served on Plaintiff, who is pro se, by certified mail, return receipt requested, this 26th day of June, 2015:

Israel Garcia, Jr.
115 Evening Star Circle
Red Oak, TX 75174
Tel: 972.816.6374
Email: igarcia75115@yahoo.com

/s/ Jason H. Casell

Jason H. Casell